

REMARKS/ARGUMENTS

Claims 1-64 were pending in this application before the present response. In the Office Action dated October 7, 2010, claims 1-64 stand rejected under 35 U.S.C. § 103.

This paper rewrites claims 1-3, 5, 18, 28, 42, 56-60, and 63. Thus, claims 1-64 remain pending in this application. Applicants respectfully request reconsideration and allowance of all pending claims, in view of the following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 1-4, 9, 12-13, 15, 18-19, 22-23,26, 28-31, 33, 35-36, 42-45, 47, 49, and 56-64

Claims 1-4, 9, 12-13, 15, 18-19, 22-23,26, 28-31, 33, 35-36, 42-45, 47, 49, and 56-64 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, et al., U.S. Patent Application Publication Number 2003/0185238 (hereinafter “Strasser”), in view of Kelly et al., U.S. Patent Application Publication Number 2006/0093315 (hereinafter “Kelly”), and in further view of Lenihan et al., U.S. Patent Number 6,169,843 (hereinafter “Lenihan”) and Anderson, et al., U.S. Patent Application Publication Number 2006/0093045 (hereinafter “Anderson”). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and Strasser, Kelly, Lenihan and Anderson, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

Strasser describes a system and methods for maintaining a timing relationship among data packets associated with a single program of a multiple program transport stream. In Strasser, a transport stream parser receives a multiple program transport

stream that includes multimedia data packets from multiple programs. The multiple program transport stream organizes the programs serially (FIG. 2, element 105). The transport stream parser (element 110) synchronizes the multiple program transport stream (element 105) with a program clock reference (element 113) to extract a single program transport stream (element 115). As Strasser describes in paragraphs [0020]-[0021], since the original timing relationship of the data packets in the multiple program transport stream (element 105) is not maintained in the transport packets of the single program transport stream (element 115), the Strasser system must actively maintain the timing relationship between the transport packets. To actively maintain the timing, the Strasser system uses a timestamp module to generate a timestamp for every transport packet based on an external time reference that may be periodically resynchronized with the program clock reference (element 113), when present. Thus, Strasser describes timestamping packets that arrive in real-time with an external time reference (*e.g.*, wall clock time), and using those timestamps to pace the later playout of a subset of the stream. Furthermore, the dependence in Strasser on an external time reference thus requires that the processing of the original content is in real-time.

Kelly describes various methods for producing an edited MPEG audio/video stream from first and second streams recorded in a transport-stream format normally intended for broadcast purposes. FIG. 7 in Kelly illustrates the key features and structure of the MPEG-2 transport stream format. More specifically, FIG. 7 and the related discussion is part of the MPEG Systems Specification (ISO 13818-1) and tutorial in nature. The transport stream in Kelly is a continuous stream of transport packets labeled T-PKT, where each T-PKT includes a header portion and a payload portion. The header portion includes a PID field that indicates one elementary stream to which that packet relates, these being interleaved in units of transport packets with plentiful other streams. The payload portion, as indicated by bytes DAT-0 to DAT-N in FIG. 7, for successive transport packets that have the same PID are concatenated into a stream, and this stream carries packetized elementary stream packets PES-PKT, which are further defined in the MPEG-2 specification. Thus, as taught by Kelly, the T-PKTs are not generated, but are part of the transport stream (*e.g.*, designating a packet as “private” using the Transport_Private_Data_Flag in the Adaptation_field of the Transport_packet). Also, as

taught by Kelly, the DAT-0 to DAT-N portion of the T-PKT is payload data for the T-PKT, not metadata (*i.e.*, data that describes other data).

Lenihan describes a method and apparatus for recording and playback of transport stream packets including multiplexed audio, video, and other data streams. Lenihan also describes generating an “arrival timestamp” for each input transport packet to be recorded, and storing each “arrival timestamp” with its corresponding packet. Furthermore, the dependence in Lenihan on generating the “arrival timestamp” thus requires that the processing of the original content is in real-time.

Anderson describes a method and apparatus for splicing programs in the MPEG domain, wherein program data is carried in MPEG transport streams (TS) of data packets. The editing of data is done at the transport level. To achieve this, all layers of the transport stream TS, including transport packets, packetized elementary streams (PES) layer and elementary layer, are monitored in a non-destructive way within the original multiplex.

Independent claims 1-3, 18, 28, 42, and 56-60, as presently claimed, recite “receiving a multimedia data stream for a single program, wherein the multimedia data stream is a time based sequence of packets encoded according to a first content format”. In contrast, Strasser describes a system that receiving and processing a multiple program transport stream to isolate one of the single program transport streams in the multiple program transport stream, and generating timestamps to maintain the timing information lost during the processing. Furthermore, since the presently claimed invention uses the timing in the multimedia data stream, unlike Strasser that requires processing in real-time, the presently claimed invention can process the stream at any speed, whether faster or slower than real-time. Thus, it would not be obvious to one of ordinary skill in the art using the combination of Strasser, Kelly, Lenihan, and Anderson to receive a multimedia data stream for a single program, where the multimedia data stream is a time based sequence of packets as presently claimed.

Independent claims 1-3, 18, 28, 42, and 56-60, as presently claimed, further recite “generating a private transport packet for each presentation group” in the multimedia data stream, and “creating second content by embedding the private transport packet for each presentation group in the multimedia data stream”. In contrast, Kelly describes receiving

a transport stream, and designating one of the transport packets in the stream as a “private” packet using an attribute (Transport_Private_Data_Flag) of the packet. Thus, it would not be obvious to one of ordinary skill in the art using the combination of Strasser, Kelly, Lenihan, and Anderson to generate a private transport packet, and embed the private transport packet in the multimedia data stream as presently claimed.

Since Lenihan and Anderson fail to supply the features discussed above that are missing from Strasser and Kelly, the combination of Strasser, Kelly, Lenihan, and Anderson cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, no matter how Strasser, Kelly, Lenihan, and Anderson may be combined (even assuming, *arguendo*, that one of ordinary skill in the art would be led to combine them) the resulting combination is not the invention recited in independent claims 1-3, 18, 28, 42, and 56-60.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, and Anderson, taken either alone or in combination. Thus, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to independent claims 1-3, 18, 28, 42, and 56-60.

Claims 4-17, 19-27, 29-41, 43-55, and 61-64 depend from independent claims 1-3, 18, 28, 42, or 56-60. For the previously stated reasons, independent claims 1-3, 18, 28, 42, and 56-60 are allowable. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 4-17, 19-27, 29-41, 43-55, and 61-64.

Claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55

Claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Lenihan, Anderson, and Barton et al., U.S. Patent Number 6,233,389 (hereinafter “Barton”). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and Strasser, Kelly, Lenihan, Anderson, and Barton, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007),

the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

Claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55 depend from either independent claim 3, 18, 28, or 42. For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, and Anderson, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55.

Barton describes a multimedia time warping system that allows the user to store selected television broadcast programs while the user is simultaneously watching or reviewing another program. The television input streams are converted to an MPEG formatted stream for internal transfer and manipulation and are parsed and separated into video and audio components that are stored in temporary buffers. Thus, Barton describes demultiplexing (disassembling) the multimedia data stream into component streams and reassembling the component streams into an MPEG stream when a program is requested for display.

Since Barton fails to supply features missing from Strasser, Kelly, Lenihan, and Anderson, as described in the previous section of this response, the combination of Strasser, Kelly, Lenihan, Anderson, and Barton cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, the differences between the limitations of independent claims 1-3, 18, 28, 42, and 56-60, as presently claimed (*i.e.*, which includes the parent of dependent claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55) and the combination of Strasser, Kelly, Lenihan, Anderson, and Barton (even assuming, *arguendo*, that one of ordinary skill in the art would be led to combine them) are nonobvious.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, Anderson, and Barton, either taken alone or in combination. Since a *prima facie* conclusion of obviousness cannot be drawn from the combination of Strasser, Kelly, Lenihan, Anderson, and Barton, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to dependent claims 5-8, 10, 14, 17, 20-21, 27, 37-41, 48, and 50-55.

Claim 11

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Lenihan, Anderson, and Kovacevic, U.S. Patent Application Publication Number 2002/0128823 (hereinafter “Kovacevic”). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and Strasser, Kelly, Lenihan, Anderson, and Barton, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

Claim 11 depends from independent claim 3. For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, and Anderson, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claim 11.

Kovacevic describes a system and methods for extracting digital audio stream data from received transport streams. Since Kovacevic fails to supply features missing from Strasser, Kelly, Lenihan, and Anderson, as described in the previous section of this

response, the combination of Strasser, Kelly, Lenihan, Anderson, and Kovacevic cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, the differences between the limitations of independent claims 1-3, 18, 28, 42, and 56-60, as presently claimed (*i.e.*, which includes the parent of dependent claim 11) and the combination of Strasser, Kelly, Lenihan, Anderson, and Kovacevic (even assuming, *arguendo*, that one of ordinary skill in the art would be led to combine them) are nonobvious.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, Anderson, and Kovacevic, either taken alone or in combination. Since a *prima facie* conclusion of obviousness cannot be drawn from the combination of Strasser, Kelly, Lenihan, Anderson, and Kovacevic, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to dependent claim 11.

Claims 16, 25, 32, and 46

Claims 16, 25, 32, and 46 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Lenihan, Anderson, Barton, and McLaren, et al., U.S. Patent Number 6,064,794 (hereinafter “McLaren”). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and Strasser, Kelly, Lenihan, Anderson, Barton, and McLaren, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

Claims 16, 25, 32, and 46 depend from independent claims 3, 18, 28, and 42. For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are

patentable over Strasser, Kelly, Lenihan, Anderson, and Barton, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 16, 25, 32, and 46.

McLaren describes a method for providing various reproduction modes by controlled selection of replay locations within a video stream or between separate video streams derived for selected trick-play speeds. Since McLaren fails to supply features missing from Strasser, Kelly, Lenihan, Anderson, and Barton, as described in the previous section of this response, the combination of Strasser, Kelly, Lenihan, Anderson, Barton, and McLaren cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, the differences between the limitations of independent claims 1-3, 18, 28, 42, and 56-60, as presently claimed (*i.e.*, which includes the parent of dependent claims 16, 25, 32, and 46) and the combination of Strasser, Kelly, Lenihan, Anderson, Barton, and McLaren (even assuming, *arguendo*, that one of ordinary skill in the art would be led to combine them) are nonobvious.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser, Kelly, Lenihan, Anderson, Barton, and McLaren, either taken alone or in combination. Since a *prima facie* conclusion of obviousness cannot be drawn from the combination of Strasser, Kelly, Lenihan, Anderson, Barton, and McLaren, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to dependent claims 16, 25, 32, and 46.

Conclusion

In view of the foregoing discussion, Applicants believe that claims 1-64 are allowable over the cited art. Applicants respectfully submit that all pending claims are in full condition for allowance, and earnestly request that the Examiner withdraw all rejections of the claims and enter a Notice of Allowance at the earliest date possible.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

Respectfully submitted,
GARY HUGHES, et al.

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BY: /Stewart M. Wiener/
Stewart M. Wiener
Registration No. 46,201
Attorney for Applicants

MOTOROLA MOBILITY, INC.
101 Tournament Drive
Horsham, PA 19044
Telephone: (215) 323-1811
Fax: (215) 323-1300